

Shannon Carter #70773

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UNITED STATE DISTRICT

COURT DISTRICT OF NEVADA

Shannon Carter

Plaintiff,

Case No. 2:17-cv-01628-RFB-EJY

BRIEF IN OPPOSITION TO
DEFENDANTS SUMMARY JUDGMENT
MOTION

S. Bean et al.,

Defendants,

Statement of the Case.

This is a 1983 action filed by a prisoner at Warm Springs
Correctional Center seeking damages punitive and compensatory based
on the deliberate indifference to serious medical needs violating Plaintiff Eighth
amendment Rights, Fourteenth amendment substantive due process and first amendment
retaliation. Defendants have filed a motion for Summary Judgment as to Plaintiff's
Eighth amendment and first amendment claims against defendants Sherrie Bean, Paul Bitar,
Alberto Buencamino, James Dzurenda, Jerry Howell, Jennifer Nash and Brian Williams, arguing
that their conduct did not violate the Constitution.

Statement of facts.

The plaintiff's declaration submitted in response to the defendants motion states that on 2-20-16 Plaintiff first informed the defendants via medical kite of his need of medical attention. Thereafter, Plaintiff filed multiple kites informing the defendants of his condition turning for the worse I.E. Bleeding Gums, Chipping teeth, Pain (9) out of (10), Swallowing low, causing Blood Pressure to rise, Please help. Despite this information Plaintiff was not scheduled to see a dentist for over two months. Once seen finally, the defendant determined Plaintiff had a serious medical need I.E. Three teeth that warranted treatment # 18, 19 and # 31. On 4-21-16. It took the defendants over 2 1/2 years to complete this treatment. Despite multiple Kites, Grievances, 1983 Civil Suits, face to face run ins and TRO hearings informing the defendant of my Pain and need of treatment resulting in Subjecting me to unnecessary waton infliction of pain and ultimately permanent loss of two teeth. The defendants arguement is really all over the place on why they fail to treat me from calling my condition a non-emergency cavity to all defendants are entitled to qualified immunity.

ARGUMENT

POINT 1

THERE ARE GENUINE ISSUE OF MATERIAL FACT THAT PRECLUDE SUMMARY JUDGMENT FOR THE DEFENDANTS ON THE PLAINTIFFS DELIBERATE REDACTED INDIFFERENCE TO SERIOUS MEDICAL NEEDS AND RETALIATION

Summary Judgment is to be granted only if the record before the court shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Rule 56(c), Fed. R. Civ. P. A "material" fact is one that might affect the outcome of the suit under the governing law. *Anderson v. Liberty Lobby, Inc.* 477 U.S. 242, 248, 106 S. Ct. 2505 (1986.)

The declarations of the Plaintiff and the defendant's motion are squarely contradictory as to the deliberate indifference to Plaintiff's serious medical need and whether or not it was an on going constitutional violation and to what point the defendant action became unconstitutional and what actionally happen on 2-1-17. Scheduled appointment why was Plaintiff Not treated moreover, why wasn't Plaintiff treated after the state TRO hearing months after 2-1-17 did defendants Bean and Bitor retaliation occur on 2-1-17. There is clearly a genuine issue of fact.

1 The factual dispute is also material. As to the retaliation 2-1-17 By
 2 Bean and Bitar not treating Plaintiff because he would ^{Not} drop his
 3 lawsuit. the record is clear Plaintiff was at medical for a scheduled
 4 appointment but was not treated nor was a refusal form given
 5 As to the deliberate indifference to serious medical needs the record
 6 is clear that one Plaintiff had a serious medical need determined
 7 by the defendants on 4-21-16 the record also is clear that Plaintiff
 8 filed multiple Kites, Grievance, 1983 civil suits and TRS motion
 9 directly informing the defendants of Plaintiff Pain and need
 10 of treatment due solely to the defendants intentional delay and
 11 or denial of Plaintiff's medical treatment. further the record is
 12 clear that Plaintiff was only treated after this honorable court
 13 order Plaintiff to be treated by the defendant within (14)
 14 days over 2 1/2 years after determining Plaintiff had a serious
 15 medical need resulting in Plaintiff suffering extreme pain
 16 two attempts of suicide and ultimately permanent loss of two teeth.
 17 A reasonable jury could find for the Plaintiff based on the facts in
 18 the Plaintiff's declaration, and summary judgment must therefore be
 19 denied. Anderson V. Liberty Lobby, Inc. 477 U.S. 242, 248 106 S.Ct 2505 (1986)

20 CONCLUSION

21 For the foregoing reasons, the defendants' motion for summary judgment should be
 22 Denied.

Dated 9-28-2020

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